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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN "CLEAN DIESEL"
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

MDL No. 2672 CRB (JSC)

**JOINT STIPULATION FOR REMAND
PURSUANT TO SETTLEMENT AND
[PROPOSED] ORDER**

This Document Relates to:

*State of New York et al. v. Volkswagen
Aktiengesellschaft et al.*, No. 3:16-cv-05089 (CRB)

The Honorable Charles R. Breyer

*Commonwealth of Massachusetts et al. v.
Volkswagen Aktiengesellschaft et al.*, No. 3:16-cv-
05088 (CRB)

*Commonwealth of Pennsylvania, Department of
Environmental Protection et al. v. Volkswagen
Aktiengesellschaft et al.*, No. 3:16-cv-05159 (CRB)

*State of Maine v. Volkswagen v. Volkswagen AG et
al.*, No. 3:17-cv-00784 (CRB)

Pursuant to Civil Local Rules 7-1(5) and 7-12, the States of New York and Maine and the
Commonwealths of Massachusetts and Pennsylvania (collectively, "Plaintiff States"), and defendants
Volkswagen Aktiengesellschaft, a/k/a or d/b/a/ Volkswagen AG, Volkswagen Group of America, Inc.,
Volkswagen Group of America Chattanooga Operations, LLC, Audi Aktiengesellschaft a/k/a or d/b/a
Audi AG, Audi of America, LLC, Dr. Ing. h.c. F. Porsche Aktiengesellschaft a/k/a or d/b/a Porsche AG,
and Porsche Cars North America, Inc. (collectively, "Defendants"), (Plaintiff States and Defendants,

1 together, “the Parties”) file this Joint Stipulation for Remand Pursuant to Settlement (the “Remand
2 Stipulation”) as follows:

3 WHEREAS, on July 19, 2016, the State of New York and the New York State Department of
4 Environmental Conservation (collectively, New York), filed a complaint in New York State Supreme
5 Court alleging violations by Defendants of the state’s civil environmental laws and regulations, Case
6 No. 904021-16 (N.Y. Sup. Ct., Albany Co.), which Defendants removed to the United States District
7 Court for the Northern District of New York on August 17, 2016. Case No. 1:16-cv-1005-GTS-CFH
8 (N.D.N.Y.).

9 WHEREAS, on July 19, 2016, the Commonwealth of Massachusetts filed a complaint in the
10 Suffolk County Superior Court, Boston, Massachusetts alleging violations by Defendants of the state’s
11 civil environmental laws and regulations, Case No. 16-2266D (Mass. Sup. Ct.), which Defendants
12 removed to the United States District Court for the District of Massachusetts on August 19, 2016. Case
13 No. 1:16-cv-11690-RGS (D. Mass.).

14 WHEREAS, on August 1, 2016, the Commonwealth of Pennsylvania’s Department of
15 Environmental Protection and Department of Transportation filed a complaint in the Commonwealth
16 Court of Pennsylvania alleging violations by Defendants of the state’s environmental laws and
17 regulations and its anti-tampering statutes, Case No. 423 MD 2016 (Pa. Commw. Ct.), which
18 Defendants removed to the United States District Court for the Middle District of Pennsylvania on
19 August 25, 2016. Case No. 1:16-cv-01765-CCC (M.D. Pa.).

20 WHEREAS, on December 29, 2016, the State of Maine filed a complaint in the State of Maine
21 Superior Court, Kennebec County, alleging violations by Defendants of the state’s environmental laws
22 and regulations, Case No. CV-2016-242 (Me. Sup. Ct.), which Defendants removed to the United States
23 District Court for the District of Maine on January 27, 2017. Case No. 1:17-cv-00038-NT (D. Me.).

24 WHEREAS, the Judicial Panel on Multidistrict Litigation’s (JPML) order transferring New
25 York’s and Massachusetts’ federal actions to this Court became effective on August 31, 2016 (ECF No.
26 1792), the JPML’s order transferring Pennsylvania’s federal action to this Court became effective on
27 September 7, 2016 (ECF No. 1820), and the order transferring Maine’s federal action became effective

1 on February 13, 2017 (ECF No. 2904) (collectively, the Plaintiff States' actions pending before this
2 Court are referred to as the "State Actions").

3 WHEREAS, on March 29, 2017, the Parties, as well as the States of Connecticut, Delaware,
4 Oregon, Rhode Island, Vermont, and Washington (together with Plaintiff States, the "Section 177
5 States"), executed a "Second Partial Settlement Agreement" (the "Settlement Agreement," attached as
6 Exhibit A to this Stipulation) that resolves the State Actions described above.

7 WHEREAS, paragraph 6 of the Settlement Agreement contemplates that the State Actions
8 currently before this Court will be remanded, solely for settlement purposes, back to the state court
9 where the actions were commenced, and that consent judgments reflecting the terms of the Settlement
10 Agreement shall be entered in and shall be enforceable in such state courts. Such remand is agreed to by
11 the Parties without concession by any Party as to whether the actions were properly commenced in state
12 court, removed to federal court, or transferred to this Court. Defendants believe that removal of the State
13 Actions to federal court was proper and consent to remand of the State Actions solely for the limited
14 purpose of filing consent judgments to effectuate the Settlement Agreement, and Plaintiff States believe
15 the State Actions currently before this Court were improperly removed.

16 WHEREAS, if, upon remand, the state court (or department, agency, or tribunal, if appropriate)
17 declines to enter the consent judgment or other filings required to implement the Settlement Agreement
18 or to enforce the Settlement Agreement, or if Defendants and the relevant Plaintiff State do not
19 otherwise agree that the Settlement Agreement does not require a consent judgment or other judicial or
20 administrative approval to be effective and final in that State, the relevant Plaintiff State will cooperate
21 with Defendants to ensure that the procedural posture of the Plaintiff State's action is restored to its
22 status immediately prior to the filing of the Remand Stipulation, including, if necessary, by voluntarily
23 dismissing and refileing the action to ensure that it can be removed and transferred to the MDL Court,
24 where any remand motion would then be adjudicated by this Court as if the Settlement Agreement and
25 this Stipulation and Order had never been reached or entered as to that Plaintiff State.

26 IT IS HEREBY STIPULATED AND AGREED by the Parties, through their respective counsel
27 of record, that, subject to the Court's approval, the State Actions be remanded to the respective state

1 courts where they were commenced for the sole purpose of effecting the Settlement Agreement, without
2 prejudice to the rights of the Parties.

3
4 Dated: March 29, 2017

5
6 Respectfully Submitted,

7 ERIC T. SCHNEIDERMAN
8 *Attorney General of New York*

MAURA HEALEY
Attorney General of Massachusetts

9 By: /s/ Morgan A. Costello

By: /s/ Christophe G. Courchesne (w/
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28 *For State of New York and New York State*
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For Commonwealth of
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4 By: /s/ Mary M. Sauer (w/ permission)

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14 *For State of Maine*

For Pennsylvania Department of Environmental
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/s/ David M.J. Rein (w/ permission)

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Liaison Counsel for the Porsche Defendants

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PURSUANT TO STIPULATION, IT IS SO ORDERED

DATED:

CHARLES R. BREYER
United States District Judge

ATTESTATION (CIVIL LOCAL RULE 5-1(i)(3))

In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from the signatories.

Dated: March 30, 2017

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Attorney General of New York

/s/ Morgan A. Costello
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